

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	Case No. 1:05 CR 044-17
)	
Plaintiff,)	JUDGE OLIVER
)	
v.)	MAGISTRATE JUDGE
)	PATRICIA A. HEMANN
TIMOTHY DAVIS,)	
)	<u>REPORT AND RECOMMENDATION</u>
)	
Defendant.)	

Pursuant to General Order 99-49, this matter having been referred to United States Magistrate Judge Patricia A. Hemann for purposes of receiving, on consent of the parties, the defendant's offer of a plea of guilty, conducting the colloquy prescribed by Fed. R. Crim. P. 11, causing a verbatim record of the proceedings to be prepared, referring the matter, if appropriate, for presentence investigation, and submitting a Magistrate Judge's Report and Recommendation stating whether the plea should be accepted and a finding of guilty entered, the following, along with the transcript or other record of the proceedings submitted herewith, constitutes the Magistrate Judge's Report and Recommendation concerning the plea of guilty proffered by the defendant.

1. On October 7, 2005, the defendant, Timothy Davis, accompanied by counsel, proffered a plea of guilty to Count 1 of the Superseding Indictment.
2. Prior to such proffer, the undersigned examined the defendant as to his competency, advised him of the charge and consequences of conviction, informed him that the Court will be required to give consideration to the Federal Sentencing Guidelines and of the possibility of a departure from the Guidelines, notified him of his rights, advised him that he was waiving all his rights except the right to counsel, and otherwise provided him with the information prescribed in Fed. R. Crim. P. 11.
3. The court questioned defendant at length as to his understanding that his sentence could run for a maximum of 40 years on count 1 and informed him of monetary penalties. Defendant acknowledged that he had spoken with his counsel about the sentencing issue and understood the possible range.
4. The undersigned questioned the defendant under oath about the knowing, intelligent, and voluntary nature of the plea of guilty and finds that the defendant's plea was offered knowingly, intelligently, and voluntarily.
5. The parties provided the undersigned with sufficient information about the charged offenses and the defendant's conduct to establish a factual basis for the plea.

In light of the foregoing and the record submitted herewith, the undersigned finds that the defendant's plea was knowing, intelligent, and voluntary and that all requirements imposed by the United

States Constitution and Fed. R. Crim. P. 11 have been satisfied. The undersigned, therefore, recommends that the court accept the defendant's plea of guilty and enter a finding of guilty.

Date: October 7, 2005

/s/ Patricia A. Hemann
Patricia A. Hemann.
United States Magistrate Judge

OBJECTIONS

Any objections to this Report and Recommendation must be filed with the Clerk of Courts within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the District Court's order.¹

¹See *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). See also *Thomas v. Arn*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986).